

So the bill (H.R. 1358), as amended, was deemed read the third time and passed.

#### PAROLE COMMISSION PHASEOUT ACT OF 1995

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1507, introduced earlier today by Senator HATCH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1507) to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise today to introduce the Parole Commission Phaseout Act of 1995. I am pleased to be joined in this effort by the ranking member of the Judiciary Committee, Senator BIDEN, as well as by Senator THURMOND and Senator KENNEDY. This legislation, which is supported by both the administration and the Federal judiciary, provides for a reduction in size of the Parole Commission. At the same time, it will ensure that the Commission's duties, which are required by the due process and ex post facto clauses of the Constitution, will continue to be carried out.

Under the Sentencing Reform Act of 1984, Congress eliminated parole for persons convicted of offenses committed after November 1, 1987. Pursuant to amendments to the Sentencing Reform Act, the Parole Commission is currently scheduled go out of existence on November 1, 1997.

At that time, however, the Federal Government will retain custody over a significant number prisoners sentenced for crimes committed before 1987, and thus entitled to parole hearings. The Parole Commission estimates that as of November, 1997, there will be approximately 6,000 such so-called old law convicts remaining in prison. In addition, it is anticipated that another 6,000 such convicts will have been released on parole, subject to reincarceration for parole violations.

Presently, no other agency of the Federal Government can adequately assume the duties of the Parole Commission with regard to these old law prisoners. Yet, these prisoners are constitutionally entitled to parole consideration. Without the Parole Commission, these prisoners could claim that their sentences were being unconstitutionally lengthened by the application of a law enacted after their offense, and apply for immediate release. Thus, were the Commission allowed to terminate as scheduled, public safety could be endangered by the immediate

release of dangerous criminals who have not served their sentences.

The parole Commission is also commendably seeking to reduce its size to better accommodate its smaller workload. As the number of "old law" prisoners continues to shrink, the need for the Commission, as presently constituted, will disappear, and remaining functions will be able to be transferred to another agency of the government.

This legislation accomplishes the prudent phaseout of the Commission by extending its mandate for an additional 5 years, until November 1, 2002. Simultaneously, the bill reduces the size of the Commission. The Commission's size would be reduced by one member immediately upon enactment, and by another member in October 1996. Thus, the size of the Commission would be reduced by one-third by October 1996, with significant savings to the American taxpayers.

I urge my colleagues to support this commonsense proposal, and look forward to the swift passage of this bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1507) was deemed read the third time and passed, as follows:

S. 1507

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Parole Commission Phaseout Act of 1995".

#### SEC. 2. EXTENSION OF PAROLE COMMISSION.

(a) IN GENERAL.—For purposes of section 235(b)(1) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as it related to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to "ten years" or "ten-year period" shall be deemed to be a reference to "fifteen years" or "fifteen-year period", respectively.

(b) POWERS AND DUTIES OF PAROLE COMMISSION.—Notwithstanding section 4203 of title 18, United States Code, the United States Parole Commission may perform its functions with any quorum of Commissioners, or Commissioner, as the Commission may prescribe by regulation.

#### SEC. 3. REPEAL.

Section 235(b)(2) of the Sentencing Reform Act of 1984 (98 Stat. 2032) is repealed.

#### AUTHORIZING TESTIMONY AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 203, S. Res. 204 and S. Res. 205 submitted earlier today by Senators DOLE and DASCHLE; further, that the resolutions be considered, en bloc; that the resolutions be agreed to, en bloc; that the preambles be agreed to; that the motions to reconsider be laid upon the table; and that state-

ments relating to the measures appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolutions (S. Res. 203, S. Res. 204, and S. Res. 205) were agreed to, en bloc.

The preambles were agreed to, en bloc.

The resolutions, with their preambles, are as follows:

S. RES. 203

Whereas, in the case of *Sheila Cherry v. Richard Cherry*, Case No. FM-18145-91, pending in the New Jersey Superior Court, a subpoena *duces tecum* for testimony at a deposition and for the production of documents has been issued to William Ayala, an employee of Senator Frank Lautenberg;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers, and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

*Resolved*, That William Ayala is authorized to testify in the case of *Cherry v. Cherry*, except concerning matters for which a privilege or an objection should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent William Ayala and Senator Lautenberg's office in connection with the subpoena issued in this case.

Mr. DOLE. Mr. President, in the case of *Cherry* versus *Cherry*, a divorce proceeding pending in New Jersey Superior Court, the plaintiff has caused a subpoena to be served on an employee of Senator LAUTENBERG, seeking documents and testimony concerning the employee's performance of constituent services by contacting the IRS on behalf of the plaintiff. The plaintiff's attorney has not been able to demonstrate to Senator LAUTENBERG's office or to the Senate legal counsel how the office's casework assistance is relevant to the issues in controversy in the divorce suit. Accordingly, this resolution would authorize the Senate legal counsel to represent Senator LAUTENBERG's employee in this matter, and to seek to quash the subpoena in order to protect Senator LAUTENBERG's office from the burdens of complying with a discovery request of no relevance to the underlying dispute. This resolution also would authorize the employee to testify and produce documents in the event that the court determines that the employee does have any evidence somehow relevant to the divorce proceeding.

S. RES. 204

Whereas, in the case of *Charles Okoren, et al. v. Fyfe Symington, et al.*, No. CV-95-2527-

PHX-RCB, pending in the United States District Court for the District of Arizona, the plaintiffs have named the United States Senate as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend the Senate in civil actions relating to its official responsibilities: Now therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent the United States Senate in the case of *Charles Okoren, et al. v. Fyfe Symington, et al.*

Mr. DOLE. Mr. President, the plaintiffs in *Okoren v. Symington*, No. CV-95-2527-PHX-RCB (D. Ariz.), have brought a civil action in Federal district court in Arizona seeking two declarations from the court: first, a declaration that Arizona's indictment procedures violate the United States Constitution; and second, a declaration that the Civil Justice Reform Act of 1990 overrules the decision of the United States Supreme Court in *Younger v. Harris*, 401 U.S. 37 (1971), that federal courts will not enjoin pending state criminal prosecutions except under extraordinary circumstances.

In their suit, these plaintiffs have named, among others, the United States Senate as a party. The Senate is not, however, a proper party to this lawsuit. In fact, the plaintiffs assert no claim against the Senate. This resolution authorizes the Senate legal counsel to represent the Senate in this action.

#### S. RES. 205

Whereas, in the case of *United States of America v. Karl Zielinski*, Case No. F12187-94, a criminal action pending in the Superior Court of the District of Columbia, the United States Attorney has caused a trial subpoena to be served on Michael O'Leary, a Senate employee on the staff of the Committee on the Judiciary;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to requests for testimony made to them in their official capacities; Now, therefore, be it

*Resolved*, That Michael O'Leary is authorized to provide testimony in the case of *United States of America v. Karl Zielinski*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michael O'Leary in connection with the testimony authorized by section 1 of this resolution.

Mr. DOLE. Mr. President, in the case of *United States of America versus Karl Zielinski*, the United States Attorney for the District of Columbia has charged the defendant with threatening to do bodily harm to occupants of

the Hart Senate Office Building in violation of section 22-507 of the District of Columbia Code, during a visit in December 1994 to the offices of the Senate Judiciary Committee's Subcommittee on Patents, Copyrights, and Trademarks.

Michael O'Leary, an employee on the Judiciary Committee's staff, witnessed the incident and has been subpoenaed by the U.S. Attorney to testify at the trial.

This resolution would authorize Mr. O'Leary to testify at the trial, with representation by the Senate legal counsel.

#### SMITHSONIAN INSTITUTION SES- QUICENTENNIAL COMMEMORATIVE COIN ACT OF 1995

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2627, which has just been received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title. The assistant legislative clerk read as follows:

A bill (H.R. 2627) to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2627) was deemed read the third time, and passed.

#### PERMITTING USE OF THE CAPITOL ROTUNDA FOR A CEREMONY COMMEMORATING THE HOLO- CAUST VICTIMS

Mr. WARNER. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of H. Con. Res. 106, and further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 106) permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WARNER. I ask unanimous consent that the concurrent resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 106) was agreed to.

#### AMENDING THE IMPACT AID PROGRAM

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1509, a bill introduced earlier today by Senators DASCHLE and PRESSLER to permit local educational agencies to apply for increased impact aid payments, that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table; further, that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1509) was deemed read the third time, and passed, as follows:

#### S. 1509

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. HOLD-HARMLESS AMOUNTS FOR PAY- MENTS RELATING TO FEDERAL AC- QUISITION OF REAL PROPERTY.

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

"(g) FORMER DISTRICTS.—

"(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994.

"(h) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b)—

"(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

"(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).